

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 3034  
OFFERED BY MR. BIGGS OF ARIZONA**

Add at the end of the bill the following:

**1 SEC. 2. JUDICIAL ADMINISTRATION AND IMPROVEMENT.**

2 (a) DEFINITIONS.—In this section:

3 (1) FORMER NINTH CIRCUIT.—The term  
4 “former ninth circuit” means the ninth judicial cir-  
5 cuit of the United States as in existence on the day  
6 before the effective date of this section.

7 (2) NEW NINTH CIRCUIT.—The term “new  
8 ninth circuit” means the ninth judicial circuit of the  
9 United States established by the amendment made  
10 by subsection (b).

11 (3) TWELFTH CIRCUIT.—The term “twelfth cir-  
12 cuit” means the twelfth judicial circuit of the United  
13 States established by the amendment made by sub-  
14 section (b).

15 (b) NUMBER AND COMPOSITION OF CIRCUITS.—Sec-  
16 tion 41 of title 28, United States Code, is amended—

17 (1) in the matter preceding the table, by strik-  
18 ing “thirteen” and inserting “fourteen”; and

19 (2) in the table—

1 (A) by striking the item relating to the  
2 ninth circuit and inserting the following:

“Ninth ..... California, Hawaii, Oregon, Wash-  
ington, Guam, Northern Mariana  
Islands.”;

3 and

4 (B) by inserting after the item relating to  
5 the eleventh circuit the following:

“Twelfth ..... Alaska, Arizona, Idaho, Montana, Ne-  
vada.”.

6 (c) NUMBER OF CIRCUIT JUDGES.—The table con-  
7 tained in section 44(a) of title 28, United States Code,  
8 is amended—

9 (1) by striking the item relating to the ninth  
10 circuit and inserting the following:

“Ninth ..... 21”;

11 and

12 (2) by inserting after the item relating to the  
13 eleventh circuit the following:

“Twelfth ..... 8”.

14 (d) PLACES OF CIRCUIT COURT.—The table con-  
15 tained in section 48(a) of title 28, United States Code,  
16 is amended by inserting after the item relating to the elev-  
17 enth circuit the following:

“Twelfth ..... Las Vegas, Phoenix, Anchorage, Mis-  
soula.”.

18 (e) ELECTION OF ASSIGNMENT OF CIRCUIT  
19 JUDGES.—

1           (1) IN GENERAL.—Each circuit judge of the  
2 former ninth circuit who is in regular active service  
3 and whose official duty station on the day before the  
4 effective date of this section—

5                   (A) is in California, Oregon, Washington,  
6 Guam, Hawaii, or the Northern Mariana Is-  
7 lands shall be a circuit judge of the new ninth  
8 circuit as of such effective date; and

9                   (B) subject to paragraph (2), is in Alaska,  
10 Arizona, Idaho, Montana, or Nevada, shall be a  
11 circuit judge of the twelfth circuit as of such ef-  
12 fective date.

13           (2) ELECTION BY CERTAIN CIRCUIT JUDGES.—  
14 A circuit judge in regular active service as described  
15 in paragraph (1)(B) may elect to be permanently as-  
16 signed to the new ninth circuit as of such effective  
17 date by notifying the Director of the Administrative  
18 Office of the United States Courts of such election.

19           (3) VACANCIES.—For each individual serving in  
20 the position of circuit judge of the former ninth cir-  
21 cuit whose official duty station on the day before the  
22 effective date of this section is in Alaska, Arizona,  
23 Idaho, Montana, or Nevada, after the date on which  
24 such individual ceases to serve as a circuit judge, the  
25 President shall appoint, by and with the advice and

1 consent of the Senate, 1 additional circuit judge for  
2 the twelfth circuit, without regard to whether such  
3 individual makes an election described in paragraph  
4 (2).

5 (f) ELECTION OF ASSIGNMENT BY SENIOR  
6 JUDGES.—Each judge who is a senior circuit judge of the  
7 former ninth circuit, whose official duty station on the day  
8 before the effective date of this section is in Alaska, Ari-  
9 zona, Idaho, Montana, or Nevada, may elect to be as-  
10 signed to the new ninth circuit or the twelfth circuit as  
11 of such effective date and shall notify the Director of the  
12 Administrative Office of the United States Courts of such  
13 election.

14 (g) AUTHORIZATION OF TEMPORARY JUDGESHIPS.—

15 (1) IN GENERAL.—For each circuit judge in  
16 regular active service who elects to be assigned to  
17 the new ninth circuit under subsection (e)(2), the  
18 President shall appoint, by and with the advice and  
19 consent of the Senate, 1 additional circuit judge for  
20 the twelfth circuit, resident in the duty station of the  
21 circuit judge making the election as of the day be-  
22 fore the effective date of this section.

23 (2) VACANCIES.—For each appointment made  
24 under paragraph (1) for the twelfth circuit, an equal  
25 number of corresponding vacancies in the position of

1 circuit judge for the twelfth circuit shall not be  
2 filled.

3 (h) SENIORITY OF JUDGES.—

4 (1) IN GENERAL.—The seniority of each  
5 judge—

6 (A) who elects to be assigned to the twelfth  
7 circuit under subsection (e)(2);

8 (B) who elects to be assigned to the new  
9 ninth circuit under subsection (e)(2); or

10 (C) who elects to be assigned to the twelfth  
11 circuit under subsection (f),

12 shall run from the date of commission of such judge  
13 as a judge of the former ninth circuit.

14 (2) TEMPORARY TWELFTH CIRCUIT JUDGES.—

15 The seniority of each judge appointed under sub-  
16 section (g)(1) shall run from the date of commission  
17 of such judge as a judge of the twelfth circuit.

18 (i) APPLICATION TO CASES.—The following apply to  
19 any case in which, on the day before the effective date  
20 of this section, an appeal or other proceeding has been  
21 filed with the former ninth circuit:

22 (1) Except as provided in paragraph (3), if the  
23 matter has been submitted for decision, further pro-  
24 ceedings with respect to the matter shall be had in

1 the same manner and with the same effect as if this  
2 section had not been enacted.

3 (2) If the matter has not been submitted for de-  
4 cision, the appeal or proceeding, together with the  
5 original papers, printed records, and record entries  
6 duly certified, shall, by appropriate orders, be trans-  
7 ferred to the court to which the matter would have  
8 been submitted had this section been in full force  
9 and effect on the date on which such appeal was  
10 taken or other proceeding commenced, and further  
11 proceedings with respect to the case shall be had in  
12 the same manner and with the same effect as if the  
13 appeal or other proceeding had been filed in such  
14 court.

15 (3) If a petition for rehearing en banc is pend-  
16 ing on or after the effective date of this section, the  
17 petition shall be considered by the court of appeals  
18 to which the petition would have been submitted had  
19 this section been in full force and effect on the date  
20 on which the appeal or other proceeding was filed  
21 with the court of appeals.

22 (j) ADMINISTRATION.—

23 (1) IN GENERAL.—The court of appeals for the  
24 ninth circuit as constituted on the day before the ef-  
25 fective date of this section may take such adminis-

1        trative action as may be required to carry out this  
2        section and the amendments made by this section.

3            (2)    ADMINISTRATIVE    TERMINATION.—The  
4        court described in paragraph (1) shall cease to exist  
5        for administrative purposes 2 years after the effec-  
6        tive date of this section.

7            (k) EFFECTIVE DATE.—This section and the amend-  
8        ments made by this section shall take effect 1 year after  
9        the date of enactment of this section.

10          (l)    AUTHORIZATION OF APPROPRIATIONS.—There  
11        are authorized to be appropriated such sums as may be  
12        necessary to carry out this section and the amendments  
13        made by this section, including such sums as may be nec-  
14        essary to provide appropriate space and facilities for any  
15        judicial positions created by this section or an amendment  
16        made by this section.

